

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

THOMAS CLINTON, } Case No. CV 08-4180-DOC (OP)
Plaintiff, }
v. } ORDER ACCEPTING FINDINGS,
R. GREEN, et al., } CONCLUSIONS, AND
Defendants. } RECOMMENDATIONS OF
UNITED STATES MAGISTRATE
JUDGE

Pursuant to 28 U.S.C. § 636, the Court has reviewed the Third Amended Complaint, all the records and files herein, and the Final Report and Recommendation of the United States Magistrate Judge. The Court accepts the findings, conclusions, and recommendations of the Magistrate Judge,

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1 IT IS HEREBY ORDERED that:

2 (1) accepting this Final Report and Recommendation;

3 (2) denying the motion to dismiss Plaintiff's First Amendment access to
4 courts claim pursuant to Rule 12(b)(6) as to Defendant Marshall;

5 (3) denying the motion to dismiss Plaintiff's First Amendment retaliation
6 claim pursuant to Rule 12(b)(6) as to Defendant Green;

7 (4) granting the motion to dismiss Plaintiff's First Amendment access to
8 courts claim pursuant to Rule 12(b)(6) as to Defendant Green without
9 leave to amend;

10 (5) granting the motion to dismiss Plaintiff's claim that Defendant
11 Marshall interfered with Plaintiff's right of access to courts and
12 deprived Plaintiff of his property without due process of law, as these
13 claims relate to the loss or destruction of Plaintiff's legal materials,
14 and dismissing those claims without leave to amend for failure to
15 follow the Court's orders (see Fed. Rule Civ. P. 41(b); see also Ferdik
16 v. Bonzelet, 963 F.2d 1258, 1260 (9th Cir. 1992) (holding that district
17 court may dismiss action for failure to comply with any order of the
18 court));

19 (6) denying Defendants' motion to declare Plaintiff a vexatious litigant;
20 and

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2 (7) ordering Defendant Marshall to file an Answer to Plaintiff's access to
3 courts claim and ordering Defendant Green to file an Answer to
4 Plaintiff's retaliation claim within thirty days of the entry of the order
5 accepting this Final Report and Recommendation.

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7 DATED: January 25, 2012

David O. Carter
8 HONORABLE DAVID O. CARTER
United States District Judge

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10 Prepared by:

Oswald Parada

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12 HONORABLE OSWALD PARADA
13 United States Magistrate Judge